

**SUPERIOR COURT
OF THE
STATE OF DELAWARE**

RICHARD R. COOCH
RESIDENT JUDGE

NEW CASTLE COUNTY COURTHOUSE
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Submitted: April 25, 2006

Decided: May 18, 2006

**Re: Irene Harris v. Christiana Care Health
Services, Inc., et al.
C.A. No. 06C-02-047 RRC
(Consolidated case with 05C-06-101 RRC)
Defendants Mary Ann Connor's and Van Buren
Medical Associates, P.A.'s**

**On "Motion to Determine if Affidavit of Merit
Complies with [18 *Del. C.* §6853(a)(i)(c)]" of Defendants
Mary Ann Connor and Van Buren Medical
Associates, P.A.**

Affidavit reviewed.

Dear Counsel:

1. There are three Affidavits of Merit submitted by Plaintiffs in connection

with Plaintiffs' claims against Mary Ann Connor and Van Buren Medical Associates, P.A.

2. Two of the affidavits (submitted by board certified family practice physicians) comply with 18 *Del. C.* §6853. However, the Court has not considered, for purposes of this motion, the third affidavit (submitted by a board certified neurosurgeon) as it appears unnecessary for the Court to Rule upon that affidavit, given the Court's conclusions with respect to the first two affidavits that they comply with the statute.

3. The Court also observes that no allegations of health care negligence have been specifically made against Van Buren Medical Associates, P.A. presumably because of Van Buren's admitted potential liability under principles of *respondent superior* as evidenced in paragraph 5 of the Answer of Defendants Mary Ann Connor and Van Buren Medical Associates, P.A. to the Plaintiffs' Amended Complaint.

4. However, the Court further notes that none of the Affidavits of Merit address the allegation raised for the first time in Paragraph 21(e) of Plaintiffs' Amended Complaint that Defendant negligently "ordered medications for Mr. Harris which caused him to fall in his room on February 6, 2004."

Very truly yours,

RRC/mtc
cc: Prothonotary